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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,524	08/29/2005	Axel Zacharias	175.8150USU	6792

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OHLANDT, GREELEY, RUGGIERO & PERLE, LLP
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD, CT 06901

EXAMINER

HOGUE, GARY CHAPMAN

ART UNIT	PAPER NUMBER
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3611

MAIL DATE	DELIVERY MODE
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10/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/518,524	Applicant(s) ZACHARIAS, AXEL	
	Examiner Gary C. Hoge	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) 18 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 18 and 20 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The original claims were drawn to a picture frame comprising frame ledges and connecting elements, with insertion pockets in the frame ledges. Newly amended claims 18 and 20 are drawn to a picture mounting structure with an integrated spirit level. This subcombination is independent and distinct from the originally claimed subcombination because it is separately useable. For example, it can be used with a frame that does not have insertion pockets.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 18 and 20 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 5, 7-10 and 12-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Packer (3,830,278).

Packer discloses a picture frame comprising several frame ledges **11-14** and connecting elements **15** for releasably connecting adjacent frame ledges, wherein insertion pockets **33** are

provided in the frame ledges into which the connecting elements are insertable; at least two ledge rear sides of the frame ledges (there are four all together); first fastening elements **30** being configured to form a releasable connection with second fastening elements **52** provided on a picture adapted to be stretched onto the frame.

Regarding claim 2, a nail that is driven into a material is held by friction.

Regarding claim 5, the edges of the connecting elements disclosed by Packer are parallel to the outer contours of the frame ledges, and thus are in substantial alignment therewith.

Regarding claim 13, see Fig. 3.

Regarding claims 14 and 15, the frame ledges disclosed by Packer include several longitudinally extending grooves. The recitation that they are "for receiving wall mountings and/or spacers" is merely a statement of intended use and does not define over the art.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Packer (3,830,278) in view of Belfor (3,613,279).

Packer discloses the invention substantially as claimed, as set forth above. However, the corner connectors disclosed by Packer do not include friction elements (claim 3) in the form of lamellae (claim 4). Belfor teaches that it was known to provide friction elements on a corner connector of a frame. It would have been obvious to one having ordinary skill in the art at the

Art Unit: 3611

time the invention was made to provide the corner connector of the frame disclosed by Packer with friction elements, as taught by Belfor, in order to make a more secure connection.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Packer (3,830,278) in view of Henley (6,145,567).

Packer discloses the invention substantially as claimed, as set forth above. However, Packer uses staples rather than Velcro® to attach the picture. Henley teaches that Velcro® is an equivalent fastener to staples. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use Velcro® instead of staples to attach the picture disclosed by Packer, as taught by Henley, as a simple substitution of one known fastening means for another to achieve the predictable result of fastening the picture to the frame.

Response to Arguments

6. Applicant's arguments filed July 9, 2007 have been fully considered but they are not persuasive.

Regarding the IDS submitted at the time of filing, no form PTO-1449 was included with that submission. However, because the foreign references were submitted, the Examiner has considered them, along with the U.S. references mentioned in the IDS cover sheet. They are included on form PTO-892, which is attached to this action.

Regarding Packer, Applicant states that Packer “fails to disclose the claimed first fastening elements that are configured to form ‘a releasable connection’ as in claim 1 or that are for ‘being releasably connected’ as in claim 7.” On the contrary, as Applicant acknowledges in the next paragraph, Packer “discloses fasteners 52 such as staples, nails, or tacks that are driven into strips 29, 30.” Further, Packer teaches that the material from which strips **29** and **30** are

made may be softer than the material from which the rest of the frame is made. This is so that the nails or tacks can be driven into the material. But a nail or tack that has been driven into a material can also be pulled out of that material. That is what the back end of a claw hammer is for. Therefore, the connection is releasable, as called for in the claims.

Applicant further alleges that Packer "lacks any . . . second fastening elements." On the contrary, the nails constitute second fastening elements. But a nail by itself does nothing. Therefore, if the nail is the second fastening element, the material into which the nail is driven is the first fastening element.

Regarding Henley, Applicant argues that it would not be obvious to substitute Velcro® for nails because Velcro® would not result in a strong enough connection. But it is clear from Fig. 4 of Packer that the connection is subject only to shear forces. Velcro® is known to be very strong in shear. See, for example, U.S. Pat. No. 5,074,013 to Arnold et al., which states, "As is known in the prior art concerning Velcro type connectors, a coupling arrangement of the filamentary hook and loop type exhibits extremely high shear strength" (column 4, lines 55-58).

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gary C Hoge/
Primary Examiner
Art Unit 3611

gch